

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

July 27, 1998

ST LONG DISTANCE, INC. D/B/A
NORTHLAND CALLING CHOICE
Petition for Finding of Public
Convenience and Necessity to
Provide Service as a Local
Exchange Telephone Utility

Docket No. 98-131

ORDER GRANTING AUTHORITY
TO PROVIDE LOCAL SERVICE

ST LONG DISTANCE, INC D/B/A
NORTHLAND CALLING CHOICE
Proposed Tariff for the Provision
of Local Exchange and Interexchange
Services

Docket No. 98-442

ORDER APPROVING SCHEDULES
OF RATES AND TERMS
AND CONDITIONS

WELCH, Chairman; and NUGENT, Commissioner

In this Order, the Commission grants ST Long Distance, Inc. d/b/a Northland Calling Choice (Northland Calling Choice) the authority to provide competitive local exchange service in all areas of the State of Maine except areas which are currently being served by an incumbent independent local exchange carrier, meaning to include the service area of New England Telephone & Telegraph Company, d/b/a Bell Atlantic, and the unserved areas of the State of Maine; and approves the Northland Calling Choice's Terms and Conditions and Rate Schedules. We also exempt Northland Calling Choice from the requirements of Chapter 210, *Uniform System of Accounts*, and of 35-A M.R.S.A. §§ 707 and 708, subject to the conditions described below.

I. APPROVAL OF APPLICATION TO SERVE

On February 17, 1998, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, Northland Calling Choice filed a petition with the Commission requesting authority to provide local telephone service in Maine. Previously, in Docket No. 96-738, the Commission authorized ST Long Distance, Inc. d/b/a Northland Long Distance to provide interexchange service.

35-A M.R.S.A. § 2105 requires us to find that the public convenience and necessity require another utility to serve where another utility is already authorized or is providing the same or similar service, before we grant approval under section 2102 for an additional public utility to provide service.

47 U.S.C. § 253(a), enacted by the Telecommunications Act of 1996, states:

(a) In General. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.

47 U.S.C. § 253(b) states, however:

(b) State Regulatory Authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

We find that granting Northland Calling Choice the authority to provide local exchange service will not impede the preservation or advancement of the public interest goals or policies stated in section 253(b).

We have previously found that ST Long Distance, Inc. is qualified to provide interexchange service. We therefore find that its financial and management capabilities are adequate to provide local services in Maine.

On June 11, 1998, Northland Calling Choice filed a proposed schedule of rates, terms and conditions for the provision of both local exchange and interexchange service. The June 11 filing was assigned Docket No. 98-442. On June 22, 1998, Northland Calling Choice filed a clarification that the interexchange rates in its June 11 filing are available only to customers who are local exchange customers, and that ST Long Distance, Inc. plans to continue to offer interexchange service on a "stand alone" basis to customers who are not local exchange customers, pursuant to the rates, terms and conditions contained in the existing schedules of ST Long Distance, Inc. d/b/a Northland Long Distance, which are currently on file with the Commission. The cover letter filed by ST Long Distance, Inc. on June 22 said that the June 11 letter mistakenly stated that the existing schedules would be superseded by the schedules which were filed on June 11. Therefore, to avoid confusion between the existing schedules and

the schedule which are currently being proposed, on June 22, 1998 Northland Calling Choice withdrew its June 11, 1998, filing and substituted a set of schedules identified as "P.U.C.-Me-No. 2" in Docket No. 98-442. On July 13, 1998, the Company refiled P.U.C.-Me-No. 2 schedules in their entirety, to reflect discussions with the Staff, and to reflect a proposed effective date of August 1, 1998. We allow the terms and conditions proposed by Northland Calling Choice in Docket No. 98-442, as filed on July 13, 1998 to go into effect.

Northland Calling Choice did not use the Commission's expedited process for approval, which includes standard terms and conditions that comply with the Commission's Rules. We have reviewed the Company's petition, Terms and Conditions, and Rate Schedules, and they appear to comply with Maine law and the Commission's Rules. Nevertheless, if there is any conflict between a provision in Northland Calling Choice's terms and conditions and the Commission's Rules or a statute, the rule or statute will govern.

In general, the Commission believes that a competitive telecommunications market results in services and rates that benefit the public. We believe that the acceptability of Northland Calling Choice's services and rates in the market place provides an adequate test of the reasonableness of the Company's rates. Accordingly, we allow the rates proposed by Northland Calling Choice to go into effect.

III. NEED TO OBTAIN INTERCONNECTION AGREEMENT(S)

To provide local exchange service, a competitive local exchange carrier must, as a practical matter, obtain an interconnection agreement with the ILEC(s) serving in any area where it intends to serve. In the absence of such an agreement, it will not be possible for Northland Calling Choice's customers to call customers of the ILEC(s), and vice versa. Interconnection agreements are governed by 47 U.S.C. § 252, and must be approved by this Commission.

If a competitive local exchange carrier (CLEC) makes a bona fide request for an interconnection agreement with an ILEC that is a "rural telephone company" as defined in 47 U.S.C. § 153(37), the "rural exemption" of 47 U.S.C. § 251(f) will apply. All of Maine's independent telephone companies are "rural telephone companies." A rural telephone company is not required to negotiate an interconnection agreement or provide interconnection until after the Commission, pursuant to 47 U.S.C. § 251(f)(1)(B), finds that the requirement "is not unduly economically burdensome, is technically feasible, and is consistent with [the universal service provisions of] section 254"

As a condition of providing local exchange service, Northland Calling Choice must comply with the terms of any interconnection agreements that it has reached with any ILECs and that have been approved by the Commission.

IV. WAIVERS; REPORTING REQUIREMENTS

Northland Calling Choice has requested a waiver from the requirements of Chapter 210 of the Commission's Rules, which governs telephone utility accounting, and from 35-A M.R.S.A. §§ 707 and 708, which govern reorganizations and affiliated interests. The Commission has the authority to grant both waivers. Because Northland Calling Choice's rates and operations are likely to be subject to market forces, we do not see any present need to subject the Company to those requirements. However, Northland Calling Choice must report its annual intrastate gross operating revenues and its annual intrastate minutes for use for the purpose of determining its regulatory assessment.¹ If Northland Calling Choice resells service to other switched or switchless telephone service providers, the Company must maintain its records so that it may separately identify those sales.

In addition, Northland Calling Choice shall inform the Commission of any changes to its corporate structure and ownership and of any changes in the name under which it does business, as set forth in Ordering Paragraph No. 3. If necessary, it shall also refile its rate schedules and terms and conditions to reflect its new identity. The exemption from 35-A M.R.S.A. §§ 707 and 708 does not apply to Northland Telephone Company of Maine, Inc. and Sidney Telephone Company, which are affiliated interests of Northland Calling Choice. Northland Telephone Company of Maine, Inc. and Sidney Telephone Company must continue to comply with the requirements of §§ 707 and 708 because they are incumbent local exchange carriers, and the Commission actively regulates their rates.

V. OTHER REQUIREMENTS

As a condition of providing local exchange service, Northland Calling Choice must comply with the terms of any applicable Commission orders or rules that may govern local interconnection and compensation for interconnection. Northland Calling Choice shall also comply with any applicable Commission Rules or orders that govern universal service, public safety and welfare, service quality and consumer rights.

¹The Commission mails the annual reporting forms to carriers in January of each year. The completed forms are due by April 1 of each year.

Northland Calling Choice shall comply with all applicable rules of the Commission and statutes of the State of Maine.

VI. ORDERING PARAGRAPHS

Accordingly, we

1. Grant, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, the request of ST Long Distance, Inc. d/b/a Northland Calling Choice to provide local exchange telephone service to all areas of the State of Maine except those areas that are currently served by an incumbent independent local exchange carrier;

2. Exempt ST Long Distance, Inc. d/b/a Northland Calling Choice from the requirements of Chapter 210 of the Commission's Rules, but it shall comply with such other financial reporting requirements ordered by the Commission;

3. Exempt ST Long Distance, Inc. d/b/a Northland Calling Choice from the approval requirements of 35-A M.R.S.A. §§ 707 and 708, provided that ST Long Distance shall notify the Commission of any reorganization, as defined in 35-A M.R.S.A. § 707(1)(A), that results in a merger, sale or transfer of a controlling interest of ST Long Distance, Inc., or of any entity that owns more than 50% of ST Long Distance, Inc. ST Long Distance, Inc. d/b/a Northland Calling Choice shall also provide notice of any other changes in the name under which it does business (d/b/a), any change of the location of its business office, and change of its contact person. ST Long Distance, Inc. shall provide the Administrative Director of the Commission with notice of any of the changes described within 30 days following the change. If necessary, ST Long Distance, Inc. shall amend its rate schedules and terms and conditions to reflect any change in identity;

4. ST Long Distance d/b/a as Northland Calling Choice shall report the revenue information that is requested by the Commission, on or before April 1 of each year; and

5. Direct that proposed terms and conditions and rate schedules filed on July 13, 1998 by ST Long Distance, Inc. d/b/a Northland Calling Choice (Original Pages 1-54), identified as P.U.C.-Me.-No. 2 and attached to this Order, shall be effective on August 1, 1998, as proposed.

Dated at Augusta, Maine, this 27th day of July, 1998.

Order Granting Authority - 6 -
to Provide Local Service. . .

Docket No. 98-131
Docket No. 98-442

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.